

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

CR 02-432-BR

Plaintiff,

OPINION AND ORDER

v.

MICHAEL EMMETT BECK,

Defendant.

**MICHAEL W. MOSMAN**

United States Attorney

**FRANK NOONAN**

Assistant United States Attorney

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Attorneys for Plaintiff

**STEVEN T. WAX**

Federal Public Defender

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Assistant Federal Public Defender

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Attorneys for Defendant

**BROWN, Judge.**

This matter comes before the Court on remand from the Court of Appeals for the Ninth Circuit for this Court to determine whether it would have imposed a sentence materially different from the 102-month prison term originally ordered if the Court had applied the United States Sentencing Guidelines in an advisory capacity. *See United States v. Beck*, 418 F.3d 1008 (9<sup>th</sup> Cir. 2005).

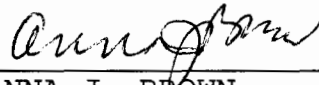
The Court has reconsidered all of the record as originally submitted. The Court also has the benefit of a September 20, 2005, letter from Defendant Michael Emmet Beck and a letter dated October 25, 2005, from Assistant United States Attorney Frank Noonan.

In light of the advisory Sentencing Guidelines and the factors set forth in 18 U.S.C. § 3553(a), the Court concludes the originally-imposed sentence of 102 months imprisonment is "sufficient, but not greater than necessary." The Court also finds it would not have exercised discretion to impose a materially different sentence if it had been free to do so when it first sentenced Defendant. The Court, therefore, finds it is not necessary to conduct any further sentencing proceedings or to

amend the original Judgment of Conviction in any manner.

IT IS SO ORDERED.

DATED this 2nd day of November, 2005.



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ANNA J. BROWN  
United States District Judge